

tion 502 (a), the label statement "Boneset * * * N. F." was false and misleading, since the article did not consist of *boneset* which conformed to the requirements of the National Formulary.

Powdered belladonna leaf. Adulteration, Section 501 (d) (2), a product containing stramonium had been substituted for *belladonna leaf*. Misbranding, Section 502 (a), the label statement "Belladonna Leaf * * * U. S. P." was false and misleading, since the article did not consist of *belladonna leaf* which conformed to the requirements of the United States Pharmacopoeia, but did consist of a mixture of *belladonna leaf* and stramonium.

DISPOSITION: July 28, 1948. Pleas of nolo contendere having been entered, the court imposed fines of \$2,300 and costs against the corporation and \$200 and costs against the individual.

2469. Adulteration of wild cherry bark. U. S. v. 1 Bag * * *. (F. D. C. No. 24727. Sample No. 10531-K.)

LIBEL FILED: April 16, 1948, District of New Jersey.

ALLEGED SHIPMENT: On or about December 15, 1947, by Ward G. Phillips, from North Wilkesboro, N. C.

PRODUCT: 1 bag of *wild cherry bark* at Jersey City, N. J.

LABEL, IN PART: "Thin Rossed Wild Cherry Bark."

NATURE OF CHARGE: Adulteration, Section 501 (b), the article purported to be and was represented as "Wild Cherry Bark," a drug the name of which is recognized in the National Formulary, an official compendium, and its quality and purity fell below the official standard since it was moldy and insect bored.

DISPOSITION: May 25, 1948. Default decree of condemnation and destruction.

2470. Adulteration and misbranding of prophylactics. U. S. v. 53 Gross * * *. (F. D. C. No. 24715. Sample No. 4025-K.)

LIBEL FILED: April 8, 1948, District of Massachusetts.

ALLEGED SHIPMENT: On or about February 24, 1948, by the Duratex Corp., from Newark, N. J.

PRODUCT: 53 gross of *prophylactics* at Boston, Mass. Examination of samples showed that 2.1 percent were defective in that they contained holes.

LABEL, IN PART: "Arab Prophylactics Genuine Latex."

NATURE OF CHARGE: Adulteration, Section 501 (c), the quality of the article fell below that which it purported and was represented to possess.

Misbranding, Section 502 (a), the label statement "Prophylactics" was false and misleading as applied to an article containing holes.

DISPOSITION: August 31, 1948. Default decree of condemnation and destruction.

2471. Adulteration and misbranding of prophylactics. U. S. v. 45 Gross * * *. (F. D. C. No. 25674. Sample No. 45622-K.)

LIBEL FILED: September 28, 1948, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about August 25, 1948, by the World Merchandise Exchange & Trading Co., Inc., from New York, N. Y.

PRODUCT: 45 gross of *prophylactics* at St. Louis, Mo. Examination of samples showed that 7.4 percent were defective in that they contained holes.

LABEL, IN PART: "Tetratex Manufactured By L. E. Shunk Latex Prod. Inc., Akron, Ohio."

NATURE OF CHARGE: Adulteration, Section 501 (c), the quality of the article fell below that which it purported and was represented to possess.

Misbranding, Section 502 (a), the label statements "Prophylactic," "Prophylactics * * * has been electronically tested and hermetically sealed in metal for your protection," and "Electronically Tested * * * hermetically sealed in individual metal containers for your protection" were false and misleading as applied to an article containing holes.

DISPOSITION: October 22, 1948. Default decree of condemnation and destruction.

2472. Adulteration and misbranding of prophylactics. U. S. v. 43 Dozen * * *. (F. D. C. No. 24486. Sample No. 21169-K.)

LIBEL FILED: March 16, 1948, Western District of Missouri.

ALLEGED SHIPMENT: On or about February 6, 1948, by W. H. Reed & Co., Inc., from Atlanta, Ga.

PRODUCT: 43 dozen *phrophylactics* made from animal membrane at Kansas City, Mo. Examination of the articles showed that 8.3 percent were defective in that they contained holes.

LABEL, IN PART: "Black and Gold Manufactured by Olympia Laboratories."

NATURE OF CHARGE: Adulteration, Section 501 (c), the quality of the article fell below that which it purported and was represented to possess.

Misbranding, Section 502 (a), the label statement "For the prevention of contagious diseases" was false and misleading as applied to an article containing holes.

DISPOSITION: May 26, 1948. W. H. Reed & Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for segregation and destruction of the unfit portion, under the supervision of the Federal Security Agency. After the segregation operations were begun, it was determined by the claimant that further work was not justified. In accordance with the claimant's desire, the entire lot was destroyed.

DRUGS AND DEVICES ACTIONABLE BECAUSE OF FALSE AND MISLEADING CLAIMS

DRUGS FOR HUMAN USE*

2473. Misbranding of Dr. Peter's Kuriko. U. S. v. 6 Dozen Bottles, etc. Tried to the jury. Decree of condemnation and destruction. Affirmed on appeal. (F. D. C. No. 11219. Sample No. 55919-F.)

LIBEL FILED: December 10, 1943, Western District of Washington; transferred to Eastern District of Wisconsin on April 18, 1944.

ALLEGED SHIPMENT: On or about October 26, 1943, by Dr. Peter Fahrney & Sons Co., from Chicago, Ill.

PRODUCT: 6 dozen bottles of *Dr. Peter's Kuriko* and a number of circulars entitled "Dr. Peter's Kuriko" at Poulsbo, Wash. Examination showed that the product consisted of a sweetened solution in water and alcohol of extracts of plant drugs, including a laxative drug such as senna.

LABEL, IN PART: "Alcohol 14 per cent Prepared from the following ingredients: Senna, Fennel, Mandrake Root, Peppermint, Spearmint, Mountain Mint, Horse-mint, Sarsaparilla, Sassafras, Hyssop, Blessed Thistle, Dittany, Ground Ivy, Johnswort, Lemon Balm, Sage, Spikenard, Yarrow."

NATURE OF CHARGE: Misbranding, Section 502 (a), certain statements and pictures on the bottle label and in the circular entitled "Dr. Peter's Kuriko" were false and misleading. It was charged that these statements and pictures represented and suggested that the article would be effective in the cure, mitigation, or treatment of functional constipation, nervousness, indigestion, upset stomach, headaches, loss of sleep and appetite, foul breath, coated tongue, general feeling of ill health, general malaise, and common colds, and that the product when taken as directed would not fulfill the promises of benefit stated and implied.

DISPOSITION: The case having been transferred to the Eastern District of Wisconsin for trial, Dr. Peter Fahrney & Sons Co., claimant, filed a motion to transfer the case to the Northern District of Illinois. The motion was argued on May 31, 1944, and the court handed down the following opinion denying the claimant's motion:

F. RYAN DUFFY, *District Judge*: "The claimant, an Illinois corporation, with its principal place of business at Chicago, moves for an order transferring this proceeding to the United States District Court for the Northern District of Illinois, Eastern Division, asserting that trial in this district would cause it undue hardship, prevent it from making proper proof of its defenses, and cause great inconvenience to its witnesses, even preventing some of them, whose testimony would be material, from attending the trial."

*See also Nos. 2452-2455, 2458, 2459, 2461, 2465, 2466, 2468, 2470-2472.